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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,797	04/01/2004	Ji Sick Hwang	1594.1437	4960
21171	7590	08/07/2007		
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER AYRES, TIMOTHY MICHAEL	
			ART UNIT 3637	PAPER NUMBER
			MAIL DATE 08/07/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/814,797

Applicant(s)

HWANG, JI SICK

Examiner

Timothy M. Ayres

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7,9-14,16 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7,9-14,16 and 18-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/18/07 has been entered.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 7, 9-14, 16, and 18-21 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. 10/739,296 in view of US Patent 4,970,874 to Solak and US Patent 4,932,224 to Katterhenery. The copending application teaches in the claims substantially the same as this patent application except a grill in the machine room and a chassis between the refrigerator housing and the adjacent structure (50). Solak teaches a refrigerator with a machine room (28) at the top portion of the housing and has a machine room door (13). A grill (64) is behind the machine room door and protects the machine room (28). Katterhenery teaches a chassis (12) between the housing (14) and an adjacent structure/floor (F). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the refrigerator of the copending application by adding the grille of Solak to protect the equipment of the machine room and add the chassis as taught by Katterhenery between its housing and an upper adjacent structure to provide an adjustable cover there between that allows for ventilation.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 103

4. Claims 7, 9, 12-14, 18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 1,841,617 to Lipman in view of US Patent 4,970,874 to Solak. Lipman teaches a refrigerator with a housing (4) and two doors (11,12) opening and closing the openings (8,9). A machine room has a bottom surface (6) and a top

Art Unit: 3637

surface (21) and is located at the topside of the housing. As seen in figure 2, a chassis is above a top surface (21) of the machine room to allow for air flow to rear exterior of the housing. An embodiment shown in figure 3 includes grills (29) covering openings. It would be obvious for a person of ordinary skill in the art to modify the rear openings by adding the grills as taught in figure to protect the machine components. Lipman does not expressly disclose an upper adjacent structure installed above an in contact with chassis. Solak teaches a refrigerator installed below and in contact with an upper adjacent structure (C) as seen in figure 1. At the time of the invention it would have been obvious for a person of ordinary skill in the art to install the refrigerator of Lipman in a configuration with an adjacent upper structure as shown by Solak. Such configuration allows for closer cabinets given more storage and better aesthetic appearances and also will cause the chassis to contact the upper structure.

5. Claims 10, 11, 16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable US Patent 1,841,617 to Lipman in view of US Patent 4,970,874 to Solak as applied to claims 7, 9, 12-14, 18, 20, and 21 above, and further in view of Japanese Patent 20011065232 to Sawano Mikio. Lipman in view of Solak discloses every element as claimed and as discussed above except the door comprising a pair of telescopic support units. Mikio teaches telescopic support units (8) to support the door (3) that has a hinge (7) outside of the housing (2). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify Lipman in view of Solak by

Art Unit: 3637

adding telescopic support units to make easier access and help support the door in the open position as taught by Mikio.

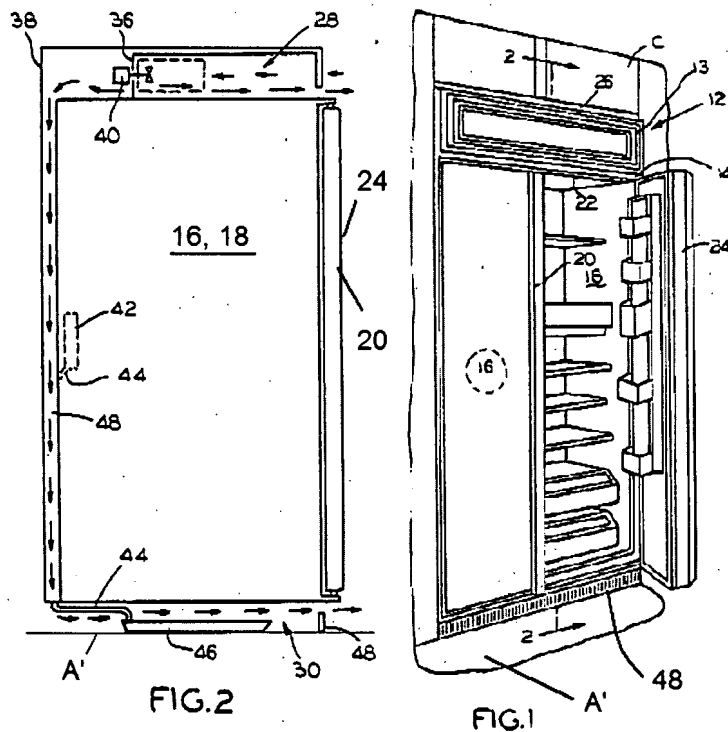
6. Claims 7, 9, 12-14, 18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication 2004/0163408 to Kim in view of US Patent 4,970,874 to Solak. Kim teaches a refrigerator with a machine room (40) located at the upper side of the housing. A grill (54,55) protects the components (41,43,42) in the machine room. A door is spaced apart from the grill by a partition plate (58). A chassis (50) is at the upper surface of the machine room and has openings (51,52, 61, 62) to enable air flow to the exterior. Kim does not expressly disclose an upper adjacent. Solak teaches a refrigerator installed below and in contact with an upper adjacent structure (C) as seen in figure 1. At the time of the invention it would have been obvious for a person of ordinary skill in the art to install the refrigerator of Kim in a configuration with an adjacent upper structure as shown by Solak such that the vent holes (52,51) would be located in front of the cabinet (C). Such configuration allows for closer cabinets given more storage and better aesthetic appearances and also will cause the chassis to contact the upper structure.

7. Claims 10, 11, 16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable US Patent Publication 2004/0163408 to Kim in view of US Patent 4,970,874 to Solak as applied to claims 7, 9, 12-14, 18, 20, and 21 above, and further in

Art Unit: 3637

view of Japanese Patent 20011065232 to Sawano Mikio. Kim in view of Solak discloses every element as claimed and as discussed above except the door comprising a pair of telescopic support units. Mikio teaches telescopic support units (8) to support the door (3) that has a hinge (7) outside of the housing (2). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify Kim in view of Solak by adding telescopic support units and a pivot to make easier access and help support the door in the open position as taught by Mikio.

8. Claims 7, 9, 12-14, 18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 4,970,874 to Solak in view of US Patent 2,811,840 to Thompson. Solak teaches a built in refrigerator in parallel to an lower adjacent structure (A') and an upper adjacent structure (C). The refrigerator comprises a housing (38) internally defining a space (16,18) and a door (20,24) hingebaly coupled to the housing to open and close the space. The center of hinging movement (axis of rotation) of the door is positioned outside of the housing as seen in figure 2. A machine room (28) is at the top portion of the housing and has a machine room door (13). A grill (64) is behind the machine room door and protects the machine room (28). The refrigerator further comprises a spacing member (48), which defines a constant gap between the housing and the lower adjacent structure (A').



Solak '874 Figures 1 and 2

9. Solak does not expressly disclose a chassis installed above an upper surface of the machine room and in contact with the upper structure. Thompson teaches a refrigerator with a housing defining a internal compartment with a door (2). At a lower portion of the housing is a machine room (4) with a machine room door (5). A chassis (17) is between the machine room (4) and adjacent structure (floor, fig. 1) and the chassis (17) has a plurality of openings (12, 18, 23) and is used to hold a filter (19). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the refrigerator of Solak by adding the chassis above the housing as taught by Thompson to house a filter and direct the air flow to the back of the refrigerator.

Art Unit: 3637

10. Claims 10, 11, 16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable US Patent 4,970,874 to Solak over in view of US Patent 2,811,840 to Thompson as applied to claims 7, 9, 12-14, 18, 20, and 21 above, and further in view of Japanese Patent 20011065232 to Sawano Mikio. Solak in view of Thompson discloses every element as claimed and as discussed above except the door comprising a pair of telescopic support units. Mikio teaches telescopic support units (8) to support the door (3) that has a hinge (7) outside of the housing (2). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify Solak in view of Thompson by adding telescopic support units to make easier access and help support the door in the open position as taught by Mikio.

11. Claims 7, 9, 12-14, 18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication 2004/0163408 to Kim in view of US Patent 2,811,840 to Thompson and US Patent 4,970,874 to Solak. Kim teaches a refrigerator with a machine room (40) located at the upper side of the housing. A grill (54,55) protects the components (41,43,42) in the machine room. A door is spaced apart from the grill by a partition plate (58). A machine room (50) has openings (51,52, 61, 62) to enable air flow to the exterior. Kim does not expressly disclose a chassis and an upper adjacent. Thompson teaches a refrigerator with a housing defining a internal compartment with a door (2). At a lower portion of the housing is a machine room (4) with a machine room door (5). A chassis (17) is between the machine room (4) and

Art Unit: 3637

adjacent structure (floor, fig. 1) and the chassis (17) has a plurality of openings (12, 18, 23) and is used to hold a filter (19). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the refrigerator of Kim by adding the chassis above the machine room housing as taught by Thompson to house a filter and direct the air flow to the back of the refrigerator. Kim in view of Thompson does not expressly disclose an upper adjacent structure.

12. Solak teaches a refrigerator installed below and in contact with an upper adjacent structure (C) as seen in figure 1. At the time of the invention it would have been obvious for a person of ordinary skill in the art to install the refrigerator of Kim in view of Thompson in a configuration with an adjacent upper structure as shown by Solak. Such configuration allows for closer cabinets given more storage and better aesthetic appearances and also will cause the chassis to contact the upper structure.

13. Claims 10, 11, 16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable US Patent Publication 2004/0163408 to Kim in view of US Patent 2,811,840 to Thompson and US Patent 4,970,874 to Solak as applied to claims 7, 9, 12-14, 18, 20, and 21 above, and further in view of Japanese Patent 20011065232 to Sawano Mikio. Kim in view of Thompson and Solak discloses every element as claimed and as discussed above except the door comprising a pair of telescopic support units. Mikio teaches telescopic support units (8) to support the door (3) that has a hinge (7) outside of the housing (2). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify Kim in view of Thompson and Solak by

Art Unit: 3637

adding telescopic support units to make easier access and help support the door in the open position as taught by Mikio.

14. Claims 7, 9, 10, 12-14, 16, 18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 2,811,840 to Thompson in view of US Patent 4,970,874 to Solak. Thompson teaches a refrigerator with a housing defining a internal compartment with a door (2). At a lower portion of the housing is a machine room (4) with a machine room door (5). A chassis (17) is between the machine room (4) and adjacent structure (floor, fig. 1) and the chassis (17) has a plurality of openings (12, 18, 23). Thompson does not expressly disclose a grille protecting machines in the machine room and the machine room being at the upper portion of the housing. Solak teaches a built in refrigerator in parallel to an lower adjacent structure (A') and an upper adjacent structure (C). The refrigerator comprises a housing (38) internally defining a space (16,18) and a door (20,24) hingebaly coupled to the housing to open and close the space. The center of hinging movement (axis of rotation) of the door is positioned outside of the housing as seen in figure 2. A machine room (28) is at the top portion of the housing and has a machine room door (13). A grill (64) is behind the machine room door and protects the machine room (28). The refrigerator further comprises a spacing member (48), which defines a constant gap between the housing and the lower adjacent structure (A'). At the time of the invention it would have been obvious for a

Art Unit: 3637

person of ordinary skill in the art to modify the refrigerator of Thompson by reversing the location of the machine room to the top of the refrigerator, making the refrigerator as a built-in as taught, and adding a grille in front of the condenser (7) as taught by Solak to allow a service technician to gain ready access in the event that problem occurs and to direct/ control the air flow to the condenser (Solak '874, Col. 1, Lines 34-44). Also, it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. See MPEP § 2144.04.

15. Claims 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 2,811,840 to Thompson in view of US Patent 4,970,874 to Solak as applied to claims 7-10, 12-18, 20, and 21 above, and further in view of Japanese Patent 20011065232 to Sawano Mikio. Thompson in view of Solak discloses every element as claimed and as discussed above except the door comprising a pair of telescopic support units. Mikio teaches telescopic support units (8) to support the door (3) that has a hinge (7) outside of the housing (2). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify Thompson in view of Solak by adding telescopic support units to make easier access and help support the door in the open position as taught by Mikio.

Response to Arguments

16. Applicant's arguments filed 7/18/07 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3637

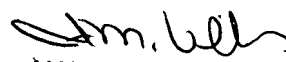
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TMA
7/31/07



JANET M. WILKENS
PRIMARY EXAMINER
AU 3637